

**United States Patent Application**  
**DECLARATION IN REISSUE APPLICATION UNDER 37 C.F.R. § 1.175**

As a below named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the subject matter which is claimed and for which a reissue patent is sought on the invention entitled:  
**OSCILLATORY CHEST COMPRESSION DEVICE.**

The specification of which

- a.  is attached hereto
- b.  was filed on \_\_\_\_\_, \_\_\_\_\_ as application serial no. \_\_\_\_\_ and was amended on \_\_\_\_\_ (if applicable) (in the case of a PCT-filed application) described and claimed in international no. \_\_\_\_\_ filed \_\_\_\_\_ and as amended on \_\_\_\_\_ (if any), which I have reviewed and for which I solicit a United States patent.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, § 1.56 (attached hereto).

I believe the original patent to be wholly or partly inoperative or invalid by reason of the patentee claiming more or less than the patentee had a right to claim. One error being relied upon as the basis for reissue is the failure to claim the system as comprising a positive air flow generator, an oscillatory air flow generator, a first feedback and control means, and a second feedback and control means. This is part of my inventive concept but was not claimed. This is claimed in claim 13, added in the reissue application, which claims a system including these elements. Other errors being relied upon are based on the patentee claiming less than the patentee properly had the right to claim.

All errors being corrected in the reissue application up to the time of filing of the declaration under 37 C.F.R. § 1.175 arose without deceptive intention on the part of any or all of the applicants.

I hereby claim foreign priority benefits under Title 35, United States Code, § 119/365 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed:

- a.  no such applications have been filed.
- b.  such applications have been filed as follows:

FOREIGN APPLICATION(S), IF ANY, CLAIMING PRIORITY UNDER 35 USC § 119			
COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)
ALL FOREIGN APPLICATION(S), IF ANY, FILED BEFORE THE PRIORITY APPLICATION(S)			
COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)

I hereby claim the benefit under Title 35, United States Code, § 120/365 of any United States and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. APPLICATION NUMBER	DATE OF FILING (day, month, year)	STATUS (patented, pending, abandoned)
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I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below:

U.S. PROVISIONAL APPLICATION NUMBER	DATE OF FILING (Day, Month, Year)

FEDERAL PRACTICE

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2	Full Name Of Inventor	Family Name Van Brunt	First Given Name Nicholas	Second Given Name P
0	Residence & Citizenship	City White Bear Lake	State or Foreign Country Minnesota	
1	Post Office Address	Post Office Address 1 Bald Eagle Island	Country of Citizenship United States	
Signature of Inventor 201: <i>Nicholas P. Van Brunt</i>			Date:	1-11-02
2	Full Name Of Inventor	Family Name Gagne	First Given Name Donald	Second Given Name J.
0	Residence & Citizenship	City St. Paul	State or Foreign Country Minnesota	
2	Post Office Address	Post Office Address 2828 Condit Street	Country of Citizenship United States	
Signature of Inventor 202: <i>Donald J. Gagne</i>			Date:	1-11-02

**§ 1.56 Duty to disclose information material to patentability.**

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim;
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
  - (i) Opposing an argument of unpatentability relied on by the Office, or
  - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE****Applicant: N.P. Van Brunt et al.****Examiner: D. D. DeMille****Serial No.: To Be Assigned****Group Art Unit: 3733****Filed: Herewith****Docket: 12653-13****Due Date: N/A****Reissue of: U.S. Patent No. 6,036,662****Title: OSCILLATORY CHEST COMPRESSION DEVICE****POWER OF ATTORNEY**

Attn: BOX REISSUE  
 Honorable Commissioner for Patents  
 Washington, D.C. 20231

Gentlemen:

The following attorneys are hereby appointed to prosecute the above-identified utility reissue patent application and to transact all business in the Patent and Trademark Office connected therewith:

Berman, C., Reg. 29,249  
 Bobys, M.P., Reg. 45,267  
 Bosworth, M.K., Reg. 28,186  
 Bovasso, L.J., Reg. 24,075  
 Boyce, J., Reg. 40,920  
 Brown, M.E., Reg. 28,590  
 Burton, D.L., Reg. 45,323  
 Canter, B., Reg. 34,792  
 Chen, A., Reg. P48,508  
 Chou, C., Reg. 41,672  
 Coleman, B.R., Reg. 39,145  
 Cullman, L.C., Reg. 39,645  
 Darrow, C., Reg. 30,166  
 Diepenbrock III, A.B., Reg. 39,960  
 Edwards, W.G., Reg. 44,426  
 Farber, M.B., Reg. 32,612

Guernsey, L.B., Reg. 40,008  
 Guillot, R.O., Reg. 28,852  
 Hamrick, C.A.S., Reg. 22,586  
 Hansen, S.R., Reg. 38,486  
 Harris, M.D., Reg. 26,690  
 Hayden, R.D., Reg. 42,645  
 Heyninck, M., Reg. 44,763  
 Hickman, P.L., Reg. 28,516  
 Howell, S.M., Reg. 45,929  
 Hughes, M.J., Reg. 29,077  
 Inskeep, J.W., Reg. 33,910  
 Jastram, H.D., Reg. 19,777  
 Kelley, S.S., Reg. 43,449  
 Kennedy, B., Reg. 33,407  
 Khan, T., Reg. 46,273  
 Kudla, J.P., Reg. P47,724

Larson, D.N., Reg. 29,401  
 Lazaris, S.J., Reg. 45,981  
 Lervick, C.J., Reg. 35,244  
 Lieske, S.C. Reg. 47,749  
 MacLean, K.A., Reg. 31,118  
 McKinley, D., Reg. 42,867  
 McRoss, L., Reg. 40,427  
 Morton, C.A., Reg. 44,954  
 Nader, R., Reg. P47,260  
 Roberts, R.E., Reg. 38,597  
 Rose, A. C., Reg. 17,047  
 Rosenberg, C., Reg. 31,464  
 Sherry, L., Reg. 43,918  
 Smith, G.P., Reg. 20,142  
 Swienton, B., Reg. P49,050  
 Wood, G.B., Reg. 28,133

The Office is requested to correspond with Michael B. Farber, Esq., Oppenheimer Wolff & Donnelly LLP, 2029 Century Park East, 38<sup>th</sup> Floor, Los Angeles, California 90067-3024 (telephone 310-788-5104; email mfarber@oppenheimer.com).

Advanced Respiratory, Inc.

Date : 1-11, 2001

Nicholas P. Van Brunt

Nicholas P. Van Brunt  
Vice-President for Research and Development,  
Advanced Respiratory, Inc.

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**Applicant:** N.P. Van Brunt et al.      **Examiner:** D. D. DeMille

**Serial No.:** To Be Assigned      **Group Art Unit:** 3733

**Filed:** Herewith      **Docket:** 12653-13

**Due Date:** N/A

**Reissue of:** U.S. Patent No. 6,036,662

**Title:** OSCILLATORY CHEST COMPRESSION DEVICE

**CONSENT OF ASSIGNEE TO REISSUE UNDER 37 C.F.R. § 1.172(a) AND**  
**CERTIFICATION UNDER 37 C.F.R. § 3.73(b)**

Attn: BOX REISSUE  
Honorable Commissioner for Patents  
Washington, D.C. 20231

Gentlemen:

The assignee of the above-identified patent for which reissue is sought hereby consents to the reissue of the patent. The assignee is Advanced Respiratory, Inc., whose name has been changed from American Biosystems, Inc.

The undersigned, who is the Vice-President for Research and Development of Advanced Respiratory, Inc., hereby states that he has authority to act for the assignee.

The undersigned further certifies that Advanced Respiratory, Inc. is the owner of the patent pursuant to 37 C.F.R. § 3.73(b).

The undersigned declares that he is authorized to execute this Certification on behalf of Advanced Respiratory, Inc., and further declares that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be

true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001 and that such willful false statements may jeopardize the validity of the application, any patent issued thereon, or any patent to which declaration is directed.

1. The inventors, Nicholas P. Van Brunt and Donald J. Gagne, assigned U.S. Pat. No. 6,036,662 to American Biosystems, Inc., as evidenced by the Assignment recorded in the Assignment Branch on March 16, 1998 at Reel 9048, Frame 0132.

2. Subsequent to the Assignment, American Biosystems, Inc. changed its name to Advanced Respiratory, Inc.

3. Advanced Respiratory, Inc. is the effective owner and real party in interest of the above-identified United States patent for which reissue is sought.

Advanced Respiratory, Inc.

Date : 1-11, 2001

Nicholas P. Van Brunt

Nicholas P. Van Brunt  
Vice-President for Research and Development,  
Advanced Respiratory, Inc.